

House Study Bill 281

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SHOMSHOR)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to renewable energy by establishing an energy
2 independence renewable energy transmission franchise process
3 which may be used under specified circumstances, providing for
4 an annual transmission line surcharge, and providing for
5 renewable energy job training grants.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TL5B 2693HC 83
8 rn/nh/5

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1 1 Section 1. NEW SECTION. 469.11 RENEWABLE ENERGY JOB
1 2 TRAINING GRANT FUND.
1 3 1. A renewable energy job training grant fund is created
1 4 within the state treasury under the control of the office.
1 5 The fund shall be used exclusively for purposes of making
1 6 grants to community colleges established under chapter 260C
1 7 for job training programs in the renewable energy field.
1 8 Eligibility and approval criteria for the grants shall be
1 9 established by the director by rule.
1 10 2. The renewable energy job training grant fund shall
1 11 consist of amounts remitted to the office and deposited into
1 12 the fund pursuant to the surcharge imposed upon the granting
1 13 of an energy independence renewable energy transmission
1 14 franchise under section 478.34.
1 15 3. Moneys in the fund are not subject to section 8.33.
1 16 Notwithstanding section 12C.7, interest or earnings on moneys
1 17 in the fund shall be credited to the fund. Moneys in the fund
1 18 may be used directly to provide grants pursuant to subsection
1 19 1, or may be used to leverage federal dollars allocated for
1 20 job training programs in the renewable energy field.
1 21 Sec. 2. Section 478.18, subsection 2, Code 2009, is
1 22 amended to read as follows:
1 23 2. A transmission line shall be constructed near and
1 24 parallel to roads, to the right-of-way of the railways of the
1 25 state, to existing utility routes, or along the division lines
1 26 of the lands, according to the government survey, wherever the
1 27 same is practicable and reasonable, and so as not to interfere
1 28 with the use by the public of the highways or streams of the
1 29 state, nor unnecessarily interfere with the use of any lands
1 30 by the occupant.
1 31 Sec. 3. Section 478.20, Code 2009, is amended to read as
1 32 follows:
1 33 478.20 DISTANCE FROM BUILDINGS.
1 34 No transmission line shall be constructed, except by
1 35 agreement, within one hundred feet of any dwelling house or
2 1 other building, except where said line crosses or passes along
2 2 a public highway or is located alongside or parallel with the
2 3 ~~right-of-way~~ right-of-way of any railway company or existing
2 4 utility route. In addition to the foregoing, each person,
2 5 company, or corporation shall conform to any other rules,
2 6 regulations, or specifications established by the utilities
2 7 board, in the construction, operation, or maintenance of such
2 8 lines.
2 9 Sec. 4. NEW SECTION. 478.34 ENERGY INDEPENDENCE
2 10 RENEWABLE ENERGY TRANSMISSION FRANCHISE == OPTIONAL PROCESS.
2 11 1. LEGISLATIVE FINDINGS AND INTENT. The general assembly
2 12 finds that as a matter of public policy and in an effort to
2 13 achieve and sustain economic growth this state must assume a
2 14 leadership role within the broader marketplace of other states
2 15 with regard to energy independence efforts. The general

2 16 assembly also recognizes that the renewable energy resources
2 17 which exist in this state are shared with neighboring states
2 18 and that economic well-being can be enhanced through energy
2 19 resource interconnection and transmission throughout the
2 20 region. The general assembly accordingly declares the
2 21 intention to become a regional leader in renewable energy
2 22 electric transmission corridor development and seeks to
2 23 promote this development through implementation of the
2 24 optional renewable energy franchise procurement process
2 25 established pursuant to this section.

2 26 2. PROCESS ESTABLISHED. An optional energy independence
2 27 renewable energy transmission franchise process is established
2 28 for persons qualifying pursuant to subsection 3 with the
2 29 objective of streamlining and consolidating franchise
2 30 procurement requirements and provisions otherwise applicable
2 31 pursuant to this chapter.

2 32 3. PROCEDURAL REQUEST FOR DETERMINATION OF ELIGIBILITY.

2 33 a. A person seeking an energy independence renewable
2 34 energy transmission franchise shall submit a procedural
2 35 request on a form to be established by the board for
3 1 consideration for an energy independence renewable energy
3 2 transmission franchise pursuant to this section. The board
3 3 shall make a preliminary determination of eligibility to a
3 4 person demonstrating that the proposed electric line
3 5 construction satisfies all of the following requirements:

3 6 (1) Furthers three or more components or recommendations
3 7 contained within the most recent Iowa energy independence plan
3 8 developed and submitted on an annual basis pursuant to section
3 9 469.4.

3 10 (2) Enhances either directly or indirectly the creation
3 11 and retention of high-quality jobs supporting or emanating
3 12 from renewable energy development in this state.

3 13 (3) Facilitates the transmission of electricity from
3 14 renewable energy sources from, across, or through the midwest.

3 15 (4) Allows nondiscriminatory open access for renewable
3 16 energy resources generated in this state on the line for which
3 17 a franchise is sought in a manner set forth by the franchise
3 18 applicant and consistent with currently applicable federal and
3 19 regional regulatory authorities and transmission requirements.

3 20 b. The board shall notify the person seeking the franchise
3 21 of a determination of eligibility or ineligibility within
3 22 thirty days after the filing of the procedural request.

3 23 4. MODIFIED PROCESS. A person determined eligible
3 24 pursuant to subsection 3 may file a petition for an energy
3 25 independence renewable energy transmission franchise pursuant
3 26 to a streamlined process adopted by the board by rule which
3 27 modifies provisions otherwise applicable to obtaining a
3 28 franchise under this chapter, as follows:

3 29 a. The provisions requiring informational meetings and
3 30 notices thereof to be conducted in each impacted county prior
3 31 to the filing of a petition, as specified in section 478.2,
3 32 shall be waived. Informational meetings shall still be
3 33 required, however, in the event of a proposed multicounty
3 34 electric transmission line, with at least one informational
3 35 meeting conducted in a centrally located area within each one
4 1 hundred mile segment of a proposed transmission line. Notice
4 2 of the meetings shall be provided as specified in section
4 3 478.2.

4 4 b. Upon completion of informational meetings as provided
4 5 in paragraph "a", if required, a petition for an energy
4 6 independence renewable energy transmission franchise may be
4 7 filed with the utilities board. A single franchise petition
4 8 may be filed for the entire proposed transmission line rather
4 9 than a separate filing in each county the proposed
4 10 transmission line traverses.

4 11 c. Written notice of the filing of the petition and the
4 12 right to object shall be provided to each landowner who might
4 13 have otherwise received notice of an informational meeting.
4 14 An affidavit stating that such notice has been provided shall
4 15 be included in the petition.

4 16 d. Negotiations for easements and rights-of-way may occur
4 17 with an impacted landowner prior to the filing of the petition
4 18 if an informational meeting as specified in paragraph "a" is
4 19 held within the one hundred mile segment involving that
4 20 impacted landowner's land.

4 21 e. A hearing on the petition, including one in which
4 22 eminent domain is requested, shall be conducted by the board
4 23 as a contested case proceeding pursuant to the provisions of
4 24 chapter 17A. The hearing shall be conducted at the board's
4 25 primary place of business rather than in each county the
4 26 proposed transmission line traverses. The board shall serve

4 27 notice of the hearing in the manner provided in section
4 28 476A.4, subsection 3, upon interested property owners and
4 29 entities, regulatory agencies, and city and county zoning
4 30 authorities, as determined by the board, from the areas which
4 31 the proposed transmission line shall traverse.

4 32 f. If a property owner, entity, regulatory agency, or
4 33 zoning authority which received notice pursuant to paragraph
4 34 "e" fails to appear of record in the contested case
4 35 proceeding, the board shall conclusively presume that the
5 1 party does not object to the petition. A city or county
5 2 zoning authority may appear on record at the hearing and state
5 3 whether the petition meets city, county, or airport zoning
5 4 requirements, as applicable. The failure of a petition to
5 5 meet zoning requirements established pursuant to chapters 329,
5 6 335, and 414 shall not preclude the board from issuance of an
5 7 energy independence renewable energy transmission franchise
5 8 and to that extent the provisions of this subsection shall
5 9 supersede the provisions of chapters 329, 335, and 414.

5 10 g. The hearing on the franchise petition shall be
5 11 conducted no later than one hundred days following the filing
5 12 of the petition pursuant to this subsection. A decision
5 13 regarding issuance of the franchise shall be rendered by the
5 14 board no later than one hundred eighty days following the
5 15 filing of the petition. In the event that eminent domain is
5 16 not requested, these time frames shall be shortened to
5 17 seventy-five days and one hundred twenty days, respectively.

5 18 h. In rendering a decision on a franchise petition under
5 19 this section, the provisions of section 478.4 shall be
5 20 applicable. For purposes of an energy independence renewable
5 21 energy transmission franchise, however, the criteria that a
5 22 proposed transmission line is necessary to serve a public use
5 23 and represents a reasonable relationship to an overall plan of
5 24 transmitting electricity in the public interest shall be
5 25 supported by development of the factors set forth by the
5 26 applicant in the eligibility provisions of subsection 3.

5 27 5. SURCHARGE. Within thirty days of a transmission line
5 28 becoming operational after the granting of a franchise
5 29 petition pursuant to this section, and annually thereafter,
5 30 the person or entity owning or leasing the transmission line
5 31 shall remit a one thousand dollar surcharge per pole mile of
5 32 transmission line operating under the franchise. The
5 33 surcharge shall be remitted to the office of energy
5 34 independence for deposit in the renewable energy job training
5 35 grant fund established in section 469.11.

6 1 6. PROVISIONS OTHERWISE APPLICABLE. To the extent not
6 2 inconsistent with the modified provisions established in this
6 3 section, all other provisions of this chapter relating to
6 4 electric transmission line franchise issuance shall apply to
6 5 an energy independence renewable energy transmission
6 6 franchise.

6 7 7. RULES. The board shall by rule establish additional
6 8 procedures and requirements as necessary to administer this
6 9 section.

6 10 8. UTILITY REPLACEMENT TAX TASK FORCE. The replacement
6 11 tax task force established pursuant to section 437A.15,
6 12 subsection 7, shall, by January 1, 2010, make a recommendation
6 13 to the general assembly, after consulting with the board and
6 14 the office of energy independence, regarding the appropriate
6 15 taxing rate to be applied to an energy independence
6 16 transmission renewable energy franchise.

6 17 EXPLANATION

6 18 This bill establishes an energy independence renewable
6 19 energy transmission franchise with an optional and streamlined
6 20 franchise approval process for eligible applicants.

6 21 The bill provides that a person seeking an energy
6 22 independence renewable energy transmission franchise shall
6 23 submit a procedural request on a form to be established by the
6 24 utilities board of the utilities division of the department of
6 25 commerce for consideration for the franchise. The utilities
6 26 board shall make a preliminary determination of eligibility
6 27 upon a demonstration that the proposed electric line
6 28 construction furthers three or more components or
6 29 recommendations contained within the most recent Iowa energy
6 30 independence plan developed and submitted by the office of
6 31 energy independence, enhances the creation and retention of
6 32 high-quality renewable energy-related jobs in Iowa,
6 33 facilitates the transmission of electricity from renewable
6 34 energy sources, and allows open access for renewable energy
6 35 resources generated in this state. The board shall notify the
7 1 person seeking the franchise of a determination of eligibility
7 2 or ineligibility within 30 days of receiving the procedural

7 3 request.

7 4 The bill provides that an eligible person may file a
7 5 petition for an energy independence renewable energy
7 6 transmission franchise pursuant to streamlined provisions
7 7 modifying those otherwise applicable to obtaining a franchise
7 8 under Code chapter 478. Modifications contained within the
7 9 bill include waiving the requirement of informational meetings
7 10 unless the proposal is for a multicounty transmission line, in
7 11 which case at least one informational meeting shall be
7 12 conducted in a centrally located area within each 100 mile
7 13 segment of proposed transmission line; permitting a single
7 14 franchise petition to be filed for the entire proposed
7 15 transmission line rather than a separate filing in each county
7 16 the proposed transmission line traverses; provision of written
7 17 notice of the filing of the petition and the right to object
7 18 has been provided to each landowner who might have otherwise
7 19 received notice of an informational meeting; and allowing
7 20 easement and rights-of-way negotiations prior to the filing of
7 21 the petition if an informational meeting is held within the
7 22 100 mile segment involving the impacted landowner's land.

7 23 The bill states that a hearing on the petition shall be
7 24 conducted by the board as a contested case proceeding under
7 25 Code chapter 17A at the board's primary place of business, and
7 26 provides notice requirements to property owners, entities,
7 27 regulatory agencies, and city and county zoning authorities
7 28 which parallel current Code provisions relating to utility
7 29 construction franchises. The bill provides that a hearing on
7 30 the franchise petition shall be conducted no later than 100
7 31 days following filing of the petition, to be followed by a
7 32 decision regarding issuance of the franchise no later than 180
7 33 days following filing. In the event that eminent domain is
7 34 not requested, these time frames are shortened to 75 days and
7 35 120 days, respectively.

8 1 The bill provides that current criteria utilized by the
8 2 board in rendering a decision on a franchise petition
8 3 regarding a proposed transmission line or lines being
8 4 necessary to serve a public use and representing a reasonable
8 5 relationship to an overall plan of transmitting electricity in
8 6 the public interest shall be supported by development of the
8 7 factors set forth in establishing eligibility for the optional
8 8 process.

8 9 The bill imposes a \$1,000 annual surcharge payable within
8 10 30 days of the granting of a franchise pursuant to the
8 11 expedited process by the owner or lessee of the transmission
8 12 line, and establishes a renewable energy job training grant
8 13 fund under the control of the office of energy independence
8 14 into which the surcharges shall be deposited. The fund shall
8 15 be utilized by the office for grants to community colleges for
8 16 job training programs in the renewable energy field.

8 17 The bill states that current franchise provisions in Code
8 18 chapter 478 shall continue to apply to an energy independence
8 19 renewable energy transmission franchise to the extent not
8 20 inconsistent with the modified provisions contained in the
8 21 bill, and provides that the board shall by rule establish
8 22 additional procedures and requirements as necessary to
8 23 administer the bill's provisions.

8 24 Additionally, the bill directs the utility replacement tax
8 25 task force to make a recommendation to the general assembly,
8 26 after consulting with the board and the office of energy
8 27 independence, regarding the appropriate taxing rate to be
8 28 applied to an energy independence transmission renewable
8 29 energy franchise. The recommendation is to be made by January
8 30 1, 2010.

8 31 The bill also modifies provisions contained in Code chapter
8 32 478 relating to the location of constructed transmission
8 33 lines, and their distance from buildings, to include existing
8 34 utility routes in the location criteria.

8 35 LSB 2693HC 83

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